

Executive Summary – Enforcement Matter – Case No. 58236
I.P. "SARGE" BELL MEMORIAL POST NO. 3377 VETERANS OF FOREIGN
WARS OF THE UNITED STATES, AUSTIN, TEXAS
RN101651966
Docket No. 2019-1258-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

VFW Post 3377, 12921 Lowden Lane near Manchaca, Travis County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 6, 2020

Comments Received: No

Penalty Information

Total Penalty Assessed: \$408

Total Paid to General Revenue: \$408

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 22, 2019 through August 30, 2019

Date(s) of NOE(s): August 30, 2019

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Violation Information

Failed to collect, within 24 hours of notification of the routine distribution total coliform-positive samples at least one raw groundwater source *Escherichia coli* (or other approved fecal indicator) sample from each active groundwater source in use at the time the distribution coliform-positive samples were collected, and failed to issue a public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect a raw groundwater sample [30 TEX. ADMIN. CODE §§ 290.109(d)(4)(B) and 290.122(c)(2)(A) and (f)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Collect one groundwater source *Escherichia coli* sample from the groundwater source in use at the time the distribution coliform-positive samples were collected during the months of August 2017 and November 2018; and
 - ii. Issue public notification regarding the failure to collect a raw groundwater source *Escherichia coli* sample from each active source after a coliform-positive sample during the month of August 2017 and submit a copy of the notification, accompanied with a signed Certificate of Delivery, to the Executive Director.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Samantha Salas, Enforcement Division,
Enforcement Team 8, MC 219, (512) 239-1543; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

Respondent: William Banks, Sr., Trustee, I.P. "SARGE" BELL MEMORIAL POST NO.
3377 VETERANS OF FOREIGN WARS OF THE UNITED STATES, AUSTIN, TEXAS,
P.O. Box 808, Manchaca, Texas 78652

David Jeffs, Commander, I.P. "SARGE" BELL MEMORIAL POST NO. 3377 VETERANS
OF FOREIGN WARS OF THE UNITED STATES, AUSTIN, TEXAS, P.O. Box 808,
Manchaca, Texas 78652

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	3-Sep-2019	Screening	4-Sep-2019	EPA Due	31-Mar-2020
	PCW	4-Sep-2019				

RESPONDENT/FACILITY INFORMATION

Respondent	I.P. "SARGE" BELL MEMORIAL POST NO. 3377 VETERANS OF FOREIGN WARS OF THE UNITED STATES, AUSTIN, TEXAS				
Reg. Ent. Ref. No.	RN101651966				
Facility/Site Region	11-Austin		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	58236	No. of Violations	1
Docket No.	2019-1258-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samantha Salas
		EC's Team	Enforcement Team 8
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$300**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **36.0%** **Adjustment** **Subtotals 2, 3, & 7** **\$108**

Notes: Enhancement for two NOV's with same/similar violations, three NOV's with dissimilar violations and one agreed order containing a denial of liability.

Culpability **No** **0.0%** **Enhancement** **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** **Enhancement*** **Subtotal 6** **\$0**

Total EB Amounts **\$30**
Estimated Cost of Compliance **\$55**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$408**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$408**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$408**

DEFERRAL **0.0%** **Reduction** **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$408**

Screening Date 4-Sep-2019

Docket No. 2019-1258-PWS-E

PCW

Respondent I.P. "SARGE" BELL MEMORIAL POST NO. 3377 VETERANS OF

Case ID No. 58236 FOREIGN WARS OF THE UNITED STATES, AUSTIN, TEXAS

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101651966

Media Public Water Supply

Enf. Coordinator Samantha Salas

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 36%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for two NOVs with same/similar violations, three NOVs with dissimilar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 36%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 36%

Screening Date 4-Sep-2019

Docket No. 2019-1258-PWS-E

PCW

Respondent I.P. "SARGE" BELL MEMORIAL POST NO. 3377 VETERANS OF FOREIGN
 Case ID No. WARS OF THE UNITED STATES, AUSTIN, TEXAS
 58236

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101651966

Media Public Water Supply

Enf. Coordinator Samantha Salas

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(d)(4)(B) and 290.122(c)(2)(A) and (f)

Violation Description

Failed to collect, within 24 hours of notification of the routine distribution total coliform-positive samples on August 30, 2017 and November 18, 2018, at least one raw groundwater source Escherichia coli (or other approved fecal indicator) sample from each active groundwater source in use at the time the distribution coliform-positive samples were collected, and failed to issue public notification and submit a copy of the public notification, accompanied by a signed Certificate of Delivery, to the Executive Director regarding the failure to collect a raw groundwater sample during the month of August 2017.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect raw groundwater samples and issue public notification could result in persons served by the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

734 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$300

Two single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$30

Violation Final Penalty Total \$408

This violation Final Assessed Penalty (adjusted for limits) \$408

Economic Benefit Worksheet

Respondent I.P. "SARGE" BELL MEMORIAL POST NO. 3377 VETERANS OF FOREIGN WARS OF THE UNITED STATES,
Case ID No. AUSTIN, TEXAS
Reg. Ent. Reference No. 58236
Media RN101651966
Violation No. Public Water Supply
 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$25	19-Nov-2018	15-Apr-2020	1.41	\$2	n/a	\$2
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5	10-Sep-2018	15-Apr-2020	1.60	\$0	n/a	\$0

The training/sampling delayed cost includes the estimated amount to collect a raw groundwater source sample from each active source (\$25 per sample x one missed samples x one active source), calculated from the date the most recent sample should have been collected to the estimated date of compliance.

Notes for DELAYED costs

The other delayed cost includes the estimated amount to ensure that the delinquent public notification (\$5 per notification x one notifications) is issued to persons served by the Facility and a copy of the public notification, accompanied with a signed Certificate of Delivery, is submitted to the Executive Director, calculated from the due date of the public notification to the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$25	31-Aug-2017	4-Sep-2019	2.01	\$3	\$25	\$28
Other (as needed)				0.00	\$0	\$0	\$0

The avoided cost includes the estimated amount to collect one raw groundwater source sample from each active source (\$25 per sample x one missed sample x one active source), calculated from the date of the earliest groundwater sample was due to the date of screening.

Notes for AVOIDED costs

Approx. Cost of Compliance	\$55	TOTAL	\$30
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TCEQ Compliance History Report

Compliance History Report for CN600889794, RN101651966, Rating Year 2018 which includes Compliance History (CH) components from September 1, 2013, through August 31, 2018.

Customer, Respondent, or Owner/Operator: CN600889794, I. P. "SARGE" BELL MEMORIAL POST NO. 3377 VETERANS OF FOREIGN WARS OF THE UNITED STATES, AUSTIN, TEXAS **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN101651966, VFW POST 3377 **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 12921 LOWDEN LANE NEAR MANCHACA, TRAVIS COUNTY, TEXAS

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
2270237

Compliance History Period: September 01, 2013 to August 31, 2018 **Rating Year:** 2018 **Rating Date:** 09/01/2018

Date Compliance History Report Prepared: August 30, 2019

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 30, 2014 to August 30, 2019

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Samantha Salas

Phone: (512) 239-1543

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) Who is the current owner/operator? I. P. "Sarge" Bell Memorial Post No. 3377 Veterans Of Foreign Wars Of The United States, Austin, Tex OWNER since 1/1/1800
- 4) Who was/were the prior owner(s)/operator(s)?
JEFFS, DAVID, OWNER, 4/21/2015 to 8/3/2015
AYALA, RUDY H, OWNER, 4/21/2015 to 8/3/2015
COLWELL AL ETAL TRUSTEES, OWNER, 5/25/1983 to 8/3/2015
FITZGERALD, CHARLES E, OWNER, 4/21/2015 to 8/3/2015

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 01/06/2016 ADMINORDER 2015-0910-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THSC Chapter 341, SubChapter A 341.031(a)
Description: TCR MCL Violation 05/2015 - Failed to comply with the maximum contaminant level ("MCL") for total coliform during the month of May 2015.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
Description: GWR Triggered Source MR Violation 11/2013 - Failed to collect a raw groundwater source Escherichia coli sample from the Facility's one active source within 24 hours of notification of a distribution total coliform-positive result on a routine sample for the month of November 2013.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: NOV/2013 GWR Triggered Source Monitoring PN Posting and Reporting Violation - Failed to provide public notification and submit a copy of the notification to the Executive Director regarding the failure to collect a raw groundwater source Escherichia coli sample for the month of November 2013.
Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: AUG/2013 TCR Routine MR PN Posting and Reporting Violation - Failed to provide public notification and submit a copy of the notification to the Executive Director regarding the failure to conduct routine coliform monitoring for the month of August 2013.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: AUG/2012 TCR Routine MR PN Posting and Reporting Violation - Failed to provide public notification and submit a copy of the notification to the Executive Director regarding the failure to conduct routine coliform monitoring for the month of August 2012.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: OCT/2011 TCR Repeat MR PN Posting and Reporting Violation - Failed to provide public notification and submit a copy of the notification to the Executive Director regarding the failure to collect all repeat coliform samples following a positive coliform result for the month of October 2011.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 01/28/2019 (1591652)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Q 141.201(a)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Q 141.201(c)(3)
Description: DEC/2017 RTRC Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 12/2017.
- 2 Date: 02/21/2019 (1591652)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(d)(4)(B)
Description: GWR Triggered Source MR Violation 11/2018 - Failure to collect and/or report triggered source monitoring sample(s) following a coliform found result within the required timeline.
- 3 Date: 04/02/2019 (1591652)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: AUG/2017 GWR Triggered Source Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct triggered source monitoring for the month of 08/2017.
- 4 Date: 05/22/2019 (1591652)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)
30 TAC Chapter 290, SubChapter F 290.109(c)(3)
30 TAC Chapter 290, SubChapter F 290.109(g)(14)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.859(a)(1)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.859(b)

Description: 40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.860(b)(1)
RTCR L1 Violation 11/19/2018- 12/18/2018 - Failure to complete a Level 1
Assessment or provide an adequate Level 1 Assessment after it was triggered
during the monitoring period 11/2018.

5 Date: 07/17/2019 (1591652)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Q 141.201(a)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Q 141.201(c)(3)
Description: MAR/2019 RTCR TT PN Posting and Reporting Violation - Failure to submit a
signed certificate of delivery to the Executive Director certifying that public notice
was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period
that public notice was required for failing to adequately complete a Level 1
assessment after it was triggered during the month of 11/2018.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 8/30/2014 and 8/30/2019

- 1 Date: 03/15/2012 (1253708)
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: OCT/2011 TCR Repeat MR PN Posting and Reporting Violation - Failed to provide public notification and submit a copy of the notification to the Executive Director regarding the failure to collect all repeat coliform samples following a positive coliform result for the month of October 2011.
- 2 Date: 01/22/2013 (1253708)
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: AUG/2012 TCR Routine MR PN Posting and Reporting Violation - Failed to provide public notification and submit a copy of the notification to the Executive Director regarding the failure to conduct routine coliform monitoring for the month of August 2012.
- 3 Date: 12/18/2013 (1253708)
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: AUG/2013 TCR Routine MR PN Posting and Reporting Violation - Failed to provide public notification and submit a copy of the notification to the Executive Director regarding the failure to conduct routine coliform monitoring for the month of August 2013.
- 4 Date: 02/14/2014 (1253708)
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
- Description: GWR Triggered Source MR Violation 11/2013 - Failed to collect a raw groundwater source Escherichia coli sample from the Facility's one active source within 24 hours of notification of a distribution total coliform-positive result on a routine sample for the month of November 2013.
- 5 Date: 05/29/2014 (1253708)
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: NOV/2013 GWR Triggered Source Monitoring PN Posting and Reporting Violation - Failed to provide public notification and submit a copy of the notification to the Executive Director regarding the failure to collect a raw groundwater source Escherichia coli sample for the month of November 2013.
- 6 Date: 05/11/2015 (1253708)
- Classification: Moderate
- Self Report? NO For Informational Purposes Only
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 5A THSC Chapter 341, SubChapter A 341.031(a)
- Description: TCR MCL Violation 05/2015 - Failed to comply with the maximum contaminant level ("MCL") for total coliform during the month of May 2015.
- 7* Date: 03/13/2018 (1591652)
- Classification: Moderate
- Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.109(d)(4)(B)
Description: GWR Triggered Source MR Violation 08/2017 - Failure to collect and/or report triggered source monitoring sample(s) following a coliform found result within the required timeline.

8 Date: 01/28/2019 (1591652) Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Q 141.201(a)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Q 141.201(c)(3)

Description: DEC/2017 RTRC Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 12/2017.

9 Date: 02/21/2019 (1591652) Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.109(d)(4)(B)
Description: GWR Triggered Source MR Violation 11/2018 - Failure to collect and/or report triggered source monitoring sample(s) following a coliform found result within the required timeline.

10 Date: 04/02/2019 (1591652) Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: AUG/2017 GWR Triggered Source Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct triggered source monitoring for the month of 08/2017.

11 Date: 05/22/2019 (1591652) Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)
30 TAC Chapter 290, SubChapter F 290.109(c)(3)
30 TAC Chapter 290, SubChapter F 290.109(g)(14)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.859(a)(1)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.859(b)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Y 141.860(b)(1)
Description: RTRC L1 Violation 11/19/2018- 12/18/2018 - Failure to complete a Level 1 Assessment or provide an adequate Level 1 Assessment after it was triggered during the monitoring period 11/2018.

12 Date: 07/17/2019 (1591652) Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Q 141.201(a)
40 CFR Chapter 141, SubChapter D, PT 141, SubPT Q 141.201(c)(3)
Description: MAR/2019 RTRC TT PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to adequately complete a Level 1 assessment after it was triggered during the month of 11/2018.

* NOVs applicable for the Compliance History rating period 9/1/2013 to 8/31/2018

Appendix B

All Investigations Conducted During Component Period August 30, 2014 and August 30, 2019

Item 1	May 27, 2015**	(1253708) For Informational Purposes Only
Item 2	May 29, 2015**	(1253836) For Informational Purposes Only
Item 3	December 09, 2016**	(1356619) For Informational Purposes Only
Item 4	January 19, 2017**	(1384071) For Informational Purposes Only
Item 5	August 28, 2019	(1591652) For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2013 and 08/31/2018.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
I.P. "SARGE" BELL MEMORIAL	§	TEXAS COMMISSION ON
POST NO. 3377 VETERANS OF	§	
FOREIGN WARS OF THE UNITED	§	
STATES, AUSTIN, TEXAS	§	
RN101651966	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2019-1258-PWS-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding I.P. "SARGE" BELL MEMORIAL POST NO. 3377 VETERANS OF FOREIGN WARS OF THE UNITED STATES, AUSTIN, TEXAS (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 12921 Lowden Lane near Manchaca, Travis County, Texas (the "Facility"). The Facility provides water for human consumption, has one service connection, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. During a record review conducted on July 22, 2019 through August 30, 2019, an investigator documented that the Respondent did not collect, within 24 hours of notification of the routine distribution total coliform-positive samples on August 30, 2017 and November 18, 2018, at least one raw groundwater source *Escherichia coli* (or other approved fecal indicator) sample from each active groundwater source in use at the

time the distribution coliform-positive samples were collected, and did not issue a public notification and submit a copy of the public notification, accompanied by a signed Certificate of Delivery, to the Executive Director regarding the failure to collect a raw groundwater sample during the month of August 2017.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to collect, within 24 hours of notification of the routine distribution total coliform-positive samples at least one raw groundwater source *Escherichia coli* (or other approved fecal indicator) sample from each active groundwater source in use at the time the distribution coliform-positive samples were collected, and failed to issue a public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect a raw groundwater sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(d)(4)(B) and 290.122(c)(2)(A) and (f).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$408 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent paid the \$408 penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: I.P. "SARGE" BELL MEMORIAL POST NO. 3377 VETERANS OF FOREIGN WARS OF THE UNITED STATES, AUSTIN, TEXAS, Docket No. 2019-1258-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Collect one groundwater source *Escherichia coli* sample from the groundwater source in use at the time the distribution coliform-positive samples were collected during the months of August 2017 and November 2018, in accordance with 30 TEX. ADMIN. CODE § 290.109; and
 - ii. Issue public notification regarding the failure to collect a raw groundwater source *Escherichia coli* sample from each active source after a coliform-positive sample during the month of August 2017 and submit a copy of the notification, accompanied with a signed Certificate of Delivery, to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122.
 - b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i and 2.a.ii. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Drinking Water Special Functions Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or

I.P. "SARGE" BELL MEMORIAL POST NO. 3377 VETERANS OF FOREIGN WARS OF THE
UNITED STATES, AUSTIN, TEXAS

DOCKET NO. 2019-1258-PWS-E

Page 5

reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.


10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



7/24/2020
Date

For the Executive Director

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

William Banks Sr
Signature

June 2 2020
Date

William Banks Sr
Name (Printed or typed)

Senior Vice
Title

Authorized Representative of

I.P. "SARGE" BELL MEMORIAL POST NO. 3377 VETERANS OF FOREIGN WARS OF THE
UNITED STATES, AUSTIN, TEXAS

☐ If mailing address has changed, please check this box and provide the new address below:

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division,
Revenue Operations Section at the address in Ordering Provision 1 of this Order.